

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

THOMAS LAWRENCE FLOYD, #R61584,

Plaintiff,

V.

DR. BHARAT SHAH,

Defendant.

Cause No. 3:15-cv-00429-NJR-DGW

**ANSWER OF DEFENDANT DR. BHARAT SHAH
TO PLAINTIFF'S COMPLAINT**

COMES now, Bharat Shah, M.D., by and through his attorneys, Sandberg Phoenix & von Gontard P.C., and for his Answer to Plaintiff's Complaint (Doc. 1) states as follows:

I. ANSWER: Admitted, upon information and belief.

II.

A. ANSWER: Defendant admits that he is a physician, employed by Wexford Health Sources, Inc. and provided certain medical services to inmates at Southwestern Correctional Center. The remaining allegations are denied.

B. ANSWER: As Wexford Health Services, Inc. was dismissed from this lawsuit on May 11, 2015 no answer is required. (Doc. 6). In the event the allegations contained in this paragraph are construed as against this Defendant the same are denied.

III.

ANSWER: As this paragraph contains no allegations, no answer is required, however Defendant is without sufficient information and knowledge as to the existence of any other lawsuits brought by Plaintiff, and, therefore, any such allegations on that subject are denied.

IV. Statement of Claim:

"On 3-29-14 during my job assignment at Stateville Correctional Center in Crest Hill,

IL. I was taking trash to the dumpster and in doing so I got a cut on my lower right ankle.”

ANSWER: As the allegations contained in this paragraph are not directed towards this

Defendant no response is offered thereto. In the event the allegations contained in this paragraph are construed as against this Defendant, they are denied.

“My boss then took me to the Health Care Unit where a Dr. from Wexford Health Sources Inc. examined the wound on my leg.”

ANSWER: Defendant admits that plaintiff had certain injuries and received certain care and treatment, all of which are more fully and completely set forth in his medical records. As the remaining allegations contained in this paragraph are not directed towards this Defendant no response is offered thereto. In the event the allegations contained in this paragraph are construed as against this Defendant, they are denied.

“They had my leg x-rayed, a culture taken, and prescribed me daily dressing changes.”

ANSWER: Defendant admits that plaintiff had certain injuries and received certain care and treatment, all of which are more fully and completely set forth in his medical records. As the remaining allegations contained in this paragraph are not directed towards this Defendant no response is offered thereto. In the event the allegations contained in this paragraph are construed as against this Defendant, they are denied.

“This continued to 10-01-2014 with me seeing different Drs. who tried different things to fix the ulcer on my ankle.”

ANSWER: Defendant admits that plaintiff had certain injuries and received certain care and treatment, all of which are more fully and completely set forth in his medical records. As the remaining allegations contained in this paragraph are not directed towards this Defendant no response is offered thereto. In the event the allegations contained in this paragraph are construed as against this Defendant, they are denied.

“I seen the medical Director for Wexford Health Sources Inc. at Stateville C.C. on 10-01-2014 and I was prescribed a different pain medication which helped and a stronger antibiotic.”

ANSWER: Defendant admits that plaintiff had certain injuries and received certain care and treatment, all of which are more fully and completely set forth in his medical records. As the remaining allegations contained in this paragraph are not directed towards this Defendant no response is offered thereto. In the event the allegations contained in this paragraph are construed as against this Defendant, they are denied.

“I was then told I needed to have surgery on my lower Rt ankle to have 1 or 2 possibly screws removed from my leg that were causing the infection.”

ANSWER: Defendant admits that plaintiff had certain injuries and received certain care and treatment, all of which are more fully and completely set forth in his medical records. As the remaining allegations contained in this paragraph are not directed towards this Defendant no response is offered thereto. In the event the allegations contained in this paragraph are construed as against this Defendant, they are denied.

“I was told approxiametly (sic) 1 week later that Midland Ortho was not gonna accept any patients from Stateville Correctional Center.”

ANSWER: Defendant admits that plaintiff had certain injuries and received certain care and treatment, all of which are more fully and completely set forth in his medical records. As the remaining allegations contained in this paragraph are not directed towards this Defendant no response is offered thereto. In the event the allegations contained in this paragraph are construed as against this Defendant, they are denied.

“I then transferred to Southwestern Correctional Center on 10-15-14...”

ANSWER: Upon information and belief, Defendant admits that Plaintiff transferred from Stateville Correctional Center to Southwestern Correctional Center on our about the date stated in this paragraph.

“...and the Health Care did not give me my pain medication which I have been prescribed and Dr. Shaw also took the antibiotics I was prescribed away.”

ANSWER: Defendant admits that Plaintiff has certain injuries and received certain care and treatment, all of which are more fully and completely set forth in his medical records. Except as expressly admitted herein, the remaining allegations contained in this paragraph of Plaintiff's complaint are denied.

“Dr. Shaw put me on a daily treatment line to be seen by Nurses who cleaned and bandaged my wound.”

ANSWER: Defendant admits that Plaintiff has certain injuries and received certain care and treatment, all of which are more fully and completely set forth in his medical records.

Except as expressly admitted herein, the remaining allegations contained in this paragraph of Plaintiff's complaint are denied.

"The pain was getting alot (sic) worse and when I would mention this I was told "that's to bad".

(sic)

ANSWER: Defendant admits that Plaintiff has certain injuries and received certain care and treatment, all of which are more fully and completely set forth in his medical records. Except as expressly admitted herein, the remaining allegations contained in this paragraph of Plaintiff's complaint are denied.

"Dr. Shaw took me off the treatment line 4 separate times."

ANSWER: Defendant admits that Plaintiff has certain injuries and received certain care and treatment, all of which are more fully and completely set forth in his medical records. Except as expressly admitted herein, the remaining allegations contained in this paragraph of Plaintiff's complaint are denied.

"I would immediately get sent over to health care to see him every time he did this and explain that I was supposed to have surgery on my ankle and I then transferred down here and I still need the surgery and the pain is becoming unbearable and Dr. Shaw continued to deny me the proper treatment that the ulcer on my ankle needed."

ANSWER: Defendant admits that Plaintiff has certain injuries and received care and treatment, all of which are more fully and completely set forth in his medical records. Except as expressly admitted herein, the remaining allegations contained in this paragraph of Plaintiff's complaint are denied.

"After I sent grievances to Springfield, IL around the last week of Jan 2015. I was still only getting dressing changes."

ANSWER: Defendant admits that Plaintiff has certain injuries and received certain care and treatment, all of which are more fully and completely set forth in his medical records. Except as expressly admitted herein, the remaining allegations contained in this paragraph of Plaintiff's complaint are denied.

“I got a copy of my medical file, and finally I was taking to the University of St Louis on 3-2-2015 where I was x-rayed and seen by a Dr. who after looking at my x-ray said that I needed surgery to remove the plate and all screws from my leg because the bacteria from the wound has spread under the 8 inch plate and the surrounding area.”

ANSWER: Defendant admits that Plaintiff has certain injuries and received certain care and treatment, all of which are more fully and completely set forth in his medical records. Except as expressly admitted herein, the remaining allegations contained in this paragraph of Plaintiff's complaint are denied.

“I have been neglected and not taking seriously the injury on my leg.”

ANSWER: Denied.

“I am now gonna be having surgery. But why did I have to wait this long and go threw (sic) all the pain for over 1 years time.”

ANSWER: Defendant admits that Plaintiff has certain injuries and received certain care and treatment, all of which are more fully and completely set forth in his medical records. Except as expressly admitted herein, the remaining allegations contained in this paragraph of Plaintiff's complaint are denied.

V. Relief:

“I want to be compensated for pain & suffering and also compensation for not treating my injury properly.”

ANSWER: To the extent the statements in Plaintiff's Request for Relief are construed as averments of fact against this Defendant, the same are denied. Defendant denies the Plaintiff is entitled to the relief that he seeks.

VI. The plaintiff demands that the case be tried by jury.

ANSWER: Defendant denies the Plaintiff is entitled to the relief that he seeks.

AFFIRMATIVE DEFENSES

1. At all times relevant herein, Defendant acted in good faith in the performance of his official duties and without violating Plaintiff's clearly established statutory or constitutional rights of which a reasonable person would have known. Thus, Defendant is protected from suit by the Doctrine of Qualified Immunity.

2. To the extent the Plaintiff has failed to exhaust his administrative remedies prior to the initiation of this cause of action, Plaintiff's claims are barred by the Prison Litigation Reform Act and other applicable statutes.

3. To the extent Plaintiff's claims are against Defendant in his official capacity, the claims are barred by the Eleventh Amendment.

WHEREFORE, having fully answered Plaintiff's Complaint (Doc 1), Defendant Bharat Shah, M.D. respectfully prays to be dismissed with cost to Plaintiff and for such other and further relief as this Court deems just and proper.

SANDBERG PHOENIX & von GONTARD P.C.

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Certificate of Service

I hereby certify that on the 11th day of June, 2015, the foregoing was mailed by United States Postal Service, postage prepaid, to the following non-participant in Electronic Case Filing:

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s/Carla G. Tolbert